

1982 WL 189388 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

July 30, 1982

*1 Mr. Charles Richardson
Office of the Attorney General
Box 11549
Columbia, South Carolina 29211

Dear Charles:

This is to confirm our recent telephone conversation in which you requested my preliminary opinion as to the legal question raised in my request to the Attorney General for an opinion under date of July 13, 1982. You will recall the question is as follows: If the Sheriff serves papers which have been signed by a judge of the Family Court at the request of the attorney representing one of the parties to the action, is it proper for the Sheriff to charge and collect a fee for the service of process?

For the purpose of the question, please also assume that the Order or other paper signed by the judge were prepared by a lawyer.

I am enclosing, for your information, Ordinance No. 74-7-23 which was adopted by the Board of Commissioners for the County of Aiken.

In response to your request, it is my opinion that unless otherwise provided for by law, the Sheriff would be entitled to collect fees, costs and allowances for all papers which are served by him. It would further appear that § 20-7-1440 makes a specific exception in cases involving 'delinquency, dependency and neglect actions'. This section, however, would appear to except divorce proceedings.

It would appear, therefore, that the Sheriff is prohibited from charging service fees in delinquency, dependency and neglect actions except for divorce proceedings where he would be entitled to charge a fee. In all other cases, it is my opinion where a lawyer prepares papers and where those papers, including Orders, are signed by the Family Court Judge and these papers are then served by the Sheriff of Aiken County, the Sheriff would be entitled to charge a service fee.

I would be most appreciative to receive your opinion at your earliest convenience in that this matter has been and is causing some concern on the part of the Sheriff's Department here in Aiken County.

Kindest regards.
Yours very truly,

Robert M. Bell

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